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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 SAMUEL L. DEXTER,) NO. ED CV 18-2195-AG(E)
12)
13 Petitioner,)
14)
15 v.) ORDER OF DISMISSAL
16)
17 WARDEN/CUSTODIAN-SVSP,)
18)
19)
20 Respondent.)
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18 Petitioner filed a "Petition for Writ of Habeas Corpus" on
19 October 9, 2018 in the United States District Court for the Eastern
20 District of California. On October 15, 2018, the United States
21 District Court for the Eastern District of California transferred the
22 action to this Court. Respondent has not yet filed an answer or a
23 motion for summary judgment.
24

25 On December 4, 2018, Petitioner filed "Petitioner's Own Motion to
26 Withdraw His Federal Habeas Corpus" ("Motion"), expressing
27 Petitioner's desire to "withdraw" the Petition. Petitioner states
28 that the jailhouse lawyer who assertedly drafted the Petition

1 allegedly defrauded Petitioner by misrepresenting the facts of the
2 case. Petitioner also states that he has obtained new counsel and
3 wishes to exhaust new claims in state court.
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5 The Court construes the Motion as a notice of voluntary dismissal
6 pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure.
7 Under Rule 41(a)(1)(A), the action is deemed dismissed by operation of
8 law. See Commercial Space Management Co. v. Boeing Co., 193 F.3d
9 1074, 1078 (9th Cir. 1999) ("it is beyond debate that a dismissal
10 under Rule 41(a)(1) is effective on filing, no court order is
11 required, the parties are left as though no action had been brought,
12 the defendant can't complain, and the district court lacks
13 jurisdiction to do anything about it"). Accordingly, the Petition is
14 dismissed without prejudice. See Fed. R. Civ. P. 41(a).
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16 IT IS SO ORDERED.

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18 Dated 12/13/2018



ANDREW J. GUILFORD
UNITED STATES DISTRICT JUDGE

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22 Presented this 11th day
23 of December, 2018, by:

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25 /s/
26 CHARLES F. EICK
27 UNITED STATES MAGISTRATE JUDGE
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